

MEMORANDUM

TO: Pete Baxter, Chairman, Indiana State School Bus Committee

FROM: Valerie Hall, Legal Counsel

DATE: March 2, 2005

RE: Update of Memo regarding whether a "Special purpose bus" must stop at a railroad crossing

I have updated the attached May 3, 2000 memo by including the updated definition of "Special purpose bus" which is defined at I.C. 20-9.1-1-4.5 as follows:

As used in this article, the term "special purpose bus" means any motor vehicle designed and constructed:

(1) for the accommodation of more than ten (10) passengers;

(2) that:

(A) meets the federal school bus safety requirements under 49 U.S.C. 30125 except the:

(i) stop signal lamp required under federal motor vehicle safety standards (FMVSS) no. 131; and

(ii) flashing lamps required under federal motor vehicle safety standard (FMVSS) no. 108;

(B) when owned by a school corporation and used to transport children, complies with the Federal Motor Carrier Safety Regulations as prescribed by the United States Department of Transportation Federal Motor Carrier Safety Administration as set forth in 49 CFR Chapter III Subchapter B; or

(C) when owned by a school corporation and used to transport children, is a motor coach type bus with a capacity of thirty (30) or more passengers and a gross vehicle weight rating greater than twenty-six thousand (26,000) pounds; and

(3) that is used by a school corporation for transportation purposes not appropriate for school buses.

I.C. 9-21-12-5 and I.C. 9-21-8-39 are both similar in that they require certain vehicles to stop within fifty (50) feet, but not less than fifteen (15) feet from the nearest rail or track of the railroad. I.C. 9-21-12-5 refers to the "nearest rail of the railroad" and I.C. 9-21-8-39 refers to the "nearest track of the railroad."

I.C. 9-21-12-5 reads in part, as follows:

.(b) A person who drives:

- (1) a motor vehicle carrying passengers for hire;
- (2) a school or private bus that is carrying passengers; or
- (3) a vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo;

shall, before crossing at grade a track of a railroad, stop the vehicle not more than fifty (50) feet and not less than fifteen (15) feet from the nearest rail or the railroad...

I.C. 9-2 1-8-39 reads in part, as follows:

Whenever a person who drives a vehicle approaches a railroad grade crossing, the person shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest track of the railroad and may not proceed until the person can do so safely...

Since a “Special purpose bus” is defined as a “motor vehicle,” I.C. 9-2 1-8-39 would apply, so that a person who drives a “Special purpose bus” is required to stop within 50 feet but not less than 15 feet from the nearest track of the railroad and may not proceed until the person can do so safely.

A “School bus” is defined at I.C. 20-9.1-1-5 as follows:

As used in this article, the term “school bus” means any motor vehicle other than a special purpose bus, designed and constructed for the accommodation of more than ten (10) passengers, which is used for the transportation of Indiana school children. The term includes either the chassis or the body or both the chassis and the body.

I.C. 9-21-12-5 specifically refers to a school bus and requires the person who drives a school bus that is carrying passengers to stop before crossing at grade a track of a railroad.

It is my opinion that a person who drives a “special purpose bus” must comply with I.C. 9-21-8-39.

Attachment